



# THE ATTORNEY GENERAL OF TEXAS

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September 12, 1973

The Honorable Russell Cummings  
Executive Director  
Texas Mass Transportation Commission  
1013 San Jacinto  
Austin, Texas 78701

Opinion No. H- 98

Re: Interpretation of § 3(e)  
of Senate Bill 642, 63rd  
Legislature, as to whether  
governing body of a prin-  
cipal city or the Rapid  
Transit Authority is to  
submit plan for review

Dear Mr. Cummings:

Your letter requesting our opinion is directed to a question concerning the procedure for the creation of a Rapid Transit Authority pursuant to Senate Bill 642 of the 63rd Legislature (Acts 1973, 63rd Leg., ch. 141, p. 302). This statute will be codified as Article 1118x, Vernon's Texas Civil Statutes. Generally it authorizes the creation and organization in metropolitan areas of rapid transit authorities. Their creation is governed by § 3 which requires the governing body of a metropolitan area, either on its own motion or upon being presented with a petition signed by not less than 5,000 qualified voters, to institute proceedings to create such an authority. The first step required is the adoption of an ordinance or resolution fixing a time and place for a public hearing on the proposal. [§ 3(a)]

Subsection (b) of § 3 requires that notice of such hearing be published. Subsection (c) relates to the conduct of the hearing. Subsection (d) provides that if, after such hearing, the governing body of the principal city finds that the creation of the system would be of benefit, etc., it shall adopt an ordinance creating the authority and prescribing its boundaries.

Finally, Subsection (e) provides:

"After such hearing by the governing body of such authority, the said authority shall submit the proposed plan to the governor's interagency transportation council for their review and comment."  
(emphasis added)

Your question to us is:

"Since the 'governing body of such authority' has not held any 'such hearing,' is it the intent of this subsection to direct the governing body of the principal city rather than the governing body of authority to submit the plan to the Governor's Interagency Council for review and comment? "

In construing the statutes it is always our purpose to so construe them as to give effect to the Legislature's intent. State v. Jackson, 376 S. W. 2d 341 (Tex. 1964); Calvert v. British-American Oil Producing Co., 397 S. W. 2d 839 (Tex. 1966).

Normally, unambiguous language will be interpreted literally. However, as it is stated in 53 Tex. Jur. 2d, Statutes, §140, p. 203, with ample support in the authorities:

"It is not the function of the judiciary to correct legislative errors, mistakes, or omissions. If the language of a statute is plain, a court will not eliminate or supply a word or clause on the supposition that it was included or omitted by inadvertence. But obvious errors or mistakes of a clerical, grammatical, or typographical nature may be disregarded. . . ." (emphasis added)

To that extent, where necessary, courts may add or delete language. Sweeny Hospital District v. Carr, 378 S. W. 2d 40 (Tex. 1964); State v. Shoppers World Inc., 380 S. W. 2d 107 (Tex. 1964).

As we read Subsection (e) of § 3 it is clear that the Legislature intended that it read:

"After such hearing by the governing body of such principal city, the principal city shall submit the proposed plan to the governor's interagency transportation council for their review and comment."

Any other construction would be meaningless in view of the fact that at the time to which reference is made, i. e., "After such hearing," the "proposed plan" is the plan of the principal city to create an authority. The authority, if it is even in existence at that time, will have no plan. The purpose of the notice is to secure the assistance of the council in organizing the authority and formulating its plan. We should not adopt a construction of a statute which would result in an absurdity. State Highway Department v. Gorham, 162 S. W. 2d 934 (Tex. 1942); Dovalina v. Albert, 409 S. W. 2d 616 (Tex. Civ. App., Amarillo, 1966, err. ref., n. r. e.)

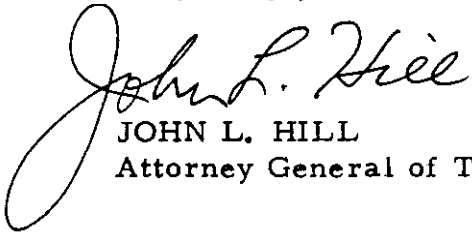
Further, as we substitute "principal city" for "authority" in one place in the subsection, it is our opinion that "said authority" elsewhere in the subsection should likewise refer to the same governmental body, i. e., the city.

We therefore answer your question that the notice to be given to the Governor's Interagency Council should come from the governing body of the principal city.

#### SUMMARY

Section 3(e) of Senate Bill 642, 63rd Legislature, should be read to require that notice of a proposed plan for a Rapid Transit Authority shall be furnished to the Governor's Interagency Transportation Council by the governing body of the principal city rather than by the governing body of the authority.

Very truly yours,

  
JOHN L. HILL  
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APPROVED:



LARRY F. YORK, First Assistant



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Opinion Committee